

- 6 -

REMARKS

Reconsideration is respectfully requested in light of the foregoing Amendment and remarks that follow:

*Drawings*

Amended Drawings have been entered. In particular, Fig. 1, has been labelled with "PRIOR ART" in compliance with the *Rules* and Examiner's objection.

*Specification*

An amended specification has been entered, in conformity with the *Rules*.

*Claim Objections and Rejections*

Claims 1-18 have been cancelled.

Claims 19-32 have been entered to claim the subject matter of the invention more distinctly, and further to comply with Examiner's objections. Specifically, the New Claims have been drafted to comply with 35 USC Para. 112 and 35 USC Para. 101.

More specifically:

- New Claims 19-29 claim the sharing of bandwidth in an Internet network by selectively associating a communication line with one or more other communication lines for the purpose bandwidth sharing in a manner that minimizes crosstalk between the various communication lines.
- New Claims 30 and 31 constitutes system claims. The previously submitted claims were method claims only. New Claim 32 is a network claim. The subject matter of Claims 30-32 is described in Examples 1 and 2.

*Claim Rejections - 35 USC Para. 103(a)*

Examiner cited U.S. Patent No. 6,778,646 ("Sun") and U.S. Patent No. 6,091,713 ("Lechleider"), on grounds of obviousness. Sun discloses a network wherein network access is improved by sharing bandwidth between telephone lines associated with different customers, specifically using high pass and low pass filters, as appropriate.

Lechleider provides a particular method for testing a subscriber loop for factors affecting broadband transmissions, including ingress noise. Specifically, Examiner stated that it would have been obvious to optimize the structure of Sun's bridged network based on a Lechleider type assessment.

Lechleider is simply one of the many tests available for assessing performance characteristics, such tests constituting background to the practice of the invention of the current application.

However, the method described in the current application, and the resultant network and system (as claimed in Claims 19-32) is very different from the Sun network. The Sun network contemplates bandwidth sharing without selectively assigning communication lines based on crosstalk minimization. Sun is simply concerned with sharing twisted pair lines between different customers in order to be able to assign multiple lines in a "fat pipe" for one particular customer. As best can be discerned from the Sun disclosure, communication lines linked to the bridge tap are randomly selected for bandwidth sharing. This means that the Sun described network is vulnerable to the well known inconsistencies in Internet access performance available to particular customers and further inefficient bandwidth allocation both across the network and also over a subset of customers and associated communication lines. Also, it should be highlighted that in accordance with the claimed invention in the current application, one particular communication line can be used for telephone service for a first customer and DSL service for a second customer. The Sun network does not have this feature, which is one aspect of the present invention.

The very problem of the present invention therefore is not considered in Sun and therefore it would not have been obvious to utilize the particular technique for testing performance as described in Lechleider to test for the impact of crosstalk and optimize for crosstalk by creating the particular networks described in the current application, based on the specific techniques described. It is submitted that too many steps are required to arrive from Sun and Lechleider to the claimed solution, and to arrive at the solution disclosed in the present application requires innovation.

- 8 -

Bandwidth sharing *per se* has been known for some time. However, inconsistency in the quality of service available to particular customers of high speed Internet is well known, and a significant contributor to this problem is the impact of crosstalk. The claimed invention therefore meets a long-felt need and has been received very positively by leading innovators in the field as a new and important contribution to the art.

Each of the New Claims is directed to the optimal allocation of particular communication lines so as to minimize the effects of crosstalk. It is submitted, based on the above, that Claims 19-32 are non-obvious.

**Extension of Time**

Agent for Applicant authorizes The Commissioner to withdraw the sum of \$60.00(US), being the requisite fee for the extension of time from our Deposit Account No. 502385.

- 9 -

Conclusion

In view of the foregoing amendments and remarks, the application is believed to be in condition for allowance and a notice to that effect is respectfully requested.

Should the Examiner not find the application to be in allowable condition or believe that a conference call would be of value in expediting the prosecution of the application, Applicants request that the Examiner telephone the undersigned Counsel to discuss the case.

Applicant requests an opportunity to submit any Supplemental Amendment that might advance prosecution and place the Application in allowable condition.

Yours faithfully,

Eugene Gierczak

Agent for Applicant  
Eugene J.A. Gierczak  
**MILLER THOMSON LLP**  
Barristers & Solicitors  
20 Queen Street West, Suite 2500  
Toronto, Ontario Canada M5H 3S1  
Telephone No. 416.596.2132  
Telecopier No. 416.595.8695  
EJAG/ADF/mm  
Encl.